

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT CLARKSBURG**

MERCK SHARP & DOHME CORP.,

Plaintiff,

v.

MYLAN PHARMACEUTICALS INC.,

Defendant.

C.A. No. 1:19-cv-00101 (IMK)

JOINT QUARTERLY STATUS REPORT

Pursuant to this Court's August 2, 2019 Order, the parties, by and through their undersigned counsel, jointly submit this Joint Quarterly Status Report.

In re Sitagliptin MDL, 19-md-2902:

On August 8, 2019, the Judicial Panel on Multidistrict Litigation issued a Transfer Order centralizing pretrial proceedings in this patent infringement litigation in the District of Delaware. Since transfer of the case to Delaware, the District of Delaware entered a Scheduling Order on August 23, 2019—which has since been modified by Amended Scheduling Orders on January 30, 2020; March 17, 2020; and December 17, 2020—with the following key upcoming dates:

Date	Delaware Deadline / Event
July 21, 2021	Close of expert discovery/expert depositions.
Aug. 11, 2021	Objections to expert testimony/ <i>Daubert</i> motions due.
Sept. 7, 2021	Deadline to file pretrial order.
Sept. 10, 2021	Pre-trial conference.
Oct. 4, 2021	First day of three-day bench trial on issues related to validity.

A three-day trial is conditionally set to begin in the Northern District of West Virginia on December 13, 2021. D.I. 48. The parties are on schedule to meet that conditional trial date.

Since the last quarterly report, the parties have continued to engage in discovery. On November 17, 2020, the District of Delaware issued a memorandum opinion construing certain terms of U.S. Patent Nos. 7,326,708, and 8,414,921.

IPR2020-00040:

On October 30, 2019, Mylan filed a petition for *inter partes* review seeking cancellation of claims 1–4, 17, 19, and 21–23 of U.S. Patent No. 7,326,708. On May 12, 2020, the Patent Trial & Appeal Board instituted trial on Mylan’s petition. Merck’s patent owner’s response pursuant to 35 U.S.C. § 316(a)(8) and 37 C.F.R. § 42.120 was filed on August 21, 2020. Mylan filed a reply on November 17, 2020, and Merck filed a sur-reply on December 22, 2020. Oral argument before the Board is presently scheduled for February 11, 2021.

Dated: January 5, 2021

Respectfully submitted,

SCHRADER COMPANION DUFF & LAW, PLLC

STEPTOE & JOHNSON, PLLC

/s/ James F. Companion

James F. Companion (WV Bar #790)
Sandra K. Law (WV Bar #6071)
401 Main Street
Wheeling, WV 26003
(304) 233-3390
jfc@schraderlaw.com
skl@schraderlaw.com

/s/ William J. O’Brien

Gordon H. Copland (WV Bar #828)
William J. O’Brien (WV Bar #10549)
400 White Oaks Blvd.
Bridgeport, WV 26330
(304) 933-8000
gordon.copland@steptoe-johnson.com
william.obrien@steptoe-johnson.com

OF COUNSEL:

OF COUNSEL:

Bruce R. Genderson (*admitted PHV*)
Jessamyn S. Berniker (*admitted PHV*)
Stanley E. Fisher (*admitted PHV*)
Alexander S. Zolan (*admitted PHV*)
Shaun P. Mahaffy (*admitted PHV*)
Anthony H. Sheh (*admitted PHV*)
Jingyuan Luo (*admitted PHV*)
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, DC 20005

Deepro R. Mukerjee (*admitted PHV*)
Lance A. Soderstrom (*admitted PHV*)
KATTEN MUCHIN ROSENMAN
575 Madison Avenue
New York, NY 10022
(212) 940-8800
deepro.mukerjee@kattenlaw.com
lance.soderstrom@kattenlaw.com

T: (202) 434-5000
F: (202) 434-5029
bgenderson@wc.com
jberniker@wc.com
sfisher@wc.com
azolan@wc.com
smahaffy@wc.com
asheh@wc.com
jluo@wc.com

*Counsel for Plaintiff
Merck Sharp & Dohme Corp.*

Alissa M. Pacchioli (*admitted PHV*)
Jitendra Malik (*admitted PHV*)
KATTEN MUCHIN ROSENMAN
550 S. Tryon Street
Suite 2900
Charlotte, NC 28202
(704) 344-3182
alissa.pacchioli@kattentlaw.com
jitty.malik@kattenlaw.com

*Counsel for Defendant
Mylan Pharmaceuticals Inc.*